

LEGAL STRUCTURE

“...the policy of the state, as part of its provision for public education, [is] to promote the establishment and development of public library service....”

Revised Code of Washington 27.12.020

The tax-supported public library is a legal entity governed by a board of trustees whose powers and duties are described in the *Revised Code of Washington (RCW)*. All trustees are obliged to read and understand the federal, state, and local laws and regulations that govern their library as well as the more general laws that apply to governmental units. Board members should thoroughly understand the extent of their legal authority and responsibilities as well as the necessity to consult the library counsel, or the municipal or county attorney when necessary.

Organizational Patterns of Public Libraries

Although there are two primary structures for Washington libraries—the library district and the municipal library—there are a number of variations established in law. As noted in the chart below, there are five distinct organizational patterns for library districts. *RCW* Title 35 and 35A also establish different patterns for municipal libraries.

BASIC ORGANIZATIONAL PATTERNS OF PUBLIC LIBRARIES	
Municipal - City or town <i>RCW 35.22.280(19)</i> <i>RCW 35A.27.010</i>	Cities operating under Title 35 and Title 35A-Optional Municipal Code Cities (See discussion below concerning Optional Municipal Code cities.)
Intercounty Rural Library District <i>RCW 27.12.090</i>	Unincorporated area of two or more counties
Island Library District <i>RCW 27.12.400</i> <i>RCW 27.12.410</i>	Unincorporated area of a single island that is not served by an existing library district serving the unincorporated county
Partial-County Rural Library District <i>RCW 27.14.470</i>	Unincorporated portion of a county that is not served by an existing rural, intercounty or island library district
Regional Library <i>RCW 27.12.080</i>	Two or more counties, or other governmental units by action of their legislative bodies may join in establishing and maintaining a regional library under the terms of a contract
Rural County Library District <i>RCW 27.12.040</i>	Unincorporated area of a single county

Establishing a Public Library

The legal authority for establishing libraries as well as the establishment process is described in the *Revised Code of Washington*. The *RCW* also includes a prescribed process for a municipality to annex with a district for library services. The following chart describes the authority for establishing a library.

HOW LIBRARIES ARE ESTABLISHED OR ADJOINED TO...	
A library may be established in any county, city or town...by its legislative body of its own initiative. <i>RCW 27.12.030</i>	City or town (Municipal) Libraries Intercounty Rural Library Districts Island Library Districts Regional Libraries Rural County Library Districts
Municipal Library <i>RCW 35.22.280</i> <i>RCW 35A.27.010</i>	Any city of the first class shall have power to provide for the establishment and maintenance of public libraries. Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries.
Contracts for Library Services <i>RCW 27.12.180</i>	The legislative body of any governmental unit authorized to maintain a library shall have power to contract to receive library service from an existing library.
Annexation to a District <i>RCW 27.12.360</i>	A municipality with population of 100,000 or less may annex to a contiguous rural, island or intercounty library district by adopting an ordinance which is approved by library board of trustees of city and then by majority vote of registered city voters. Adjacent unincorporated territory in the county may be annexed to a rural partial-county library district in the same manner as territory is annexed to a water-sewer district, except that an annexation is not subject to potential review by a boundary review board.
Rural County Library District <i>RCW 27.12.040</i> Island Library District <i>RCW 27.12.400</i>	After certified petition of 10% of registered voters in unincorporated area, county commissioners shall place proposition on ballot of next general or special election, for approval by a majority vote.
Partial-County Rural Library District <i>RCW 27.12.470</i>	District may be created in a portion of the unincorporated area of a county if a rural county library, intercounty rural library, or island library district has not been created in the county. After petition of 10% of registered voters in unincorporated area proposed for the district is certified by the auditor, the county legislative authority shall hold a public hearing, may adjust the boundaries of the proposed district, and may cause a ballot proposition for approval by majority vote. If, at the time of creation, a rural partial-county library district has an assessed valuation of less than fifty million dollars, it may provide library services only by contracting for the services through an interlocal agreement with an adjacent library district, or an adjacent city or town that maintains its own library.
Regional Library <i>RCW 27.12.080</i>	Two or more counties, or other governmental units, by action of their legislative bodies, may join in establishing and maintaining a regional library under the terms of a contract.

Appointment Process and Term of Office for Members of Governing Boards

The *Revised Code of Washington* 27.12.190 addresses the appointment, removal, and term of office of governing boards. It also sets out the appointment process. Trustees do not receive a salary or other compensation, but the library is authorized to pay necessary expenses. A 1991 Attorney Generals' memorandum interpreted the limitation to two consecutive terms to mean that a trustee who fills an unexpired term of another trustee is eligible for two additional terms.

Advisory boards are appointed by the library district to represent the interests of their community to the larger district.

APPOINTMENT AND TERM OF OFFICE OF TRUSTEES (RCW 27.12.190)	
City or town (Municipality)	Appointed by mayor or city manager, confirmed by city legislative body. Removal by vote of legislative body. Five trustees for five year term of office. No more than two consecutive terms of office.
Intercounty Rural Library District	Appointed by joint action of commissioners of all counties. Removal by joint action of all boards of county commissioners for just cause after a public hearing upon a written complaint stating grounds for removal. Five or seven trustees for five or seven years. No more than two consecutive terms of office.
Island Library District Partial-County Rural Library District Rural County Library District	Appointed by county commissioners. Removal for just cause by board of county commissioners after a public hearing upon receipt of a written complaint stating grounds for removal. Five trustees for five year term of office. No more than two consecutive terms of office.
Regional Library	Appointed by joint action of all governmental units. Five or seven trustees for five or seven years. No more than two consecutive terms of office.

Relationship of Governing Board of Trustees to Appointing Authority

Library trustees need to know the extent of their powers and fully understand their legal relationships with appointing authorities. For example, county commissioners are authorized to appoint trustees and to remove library trustees from a district board for just cause. However, county commissioners do not have the authority to approve or disapprove policies or decisions made by the district board, nor to require reports from the district board.

Specific Powers and Duties of a Governing Board

Revised Code of Washington 27.12.210 vests certain powers and duties in governing boards. Although the law does not specifically state that trustees are authorized to adopt library policies, it is implicit that they must set policy in order to properly carry out their responsibilities.

The *RCW* lists the following duties and responsibilities:

- Adopt such bylaws, rules and regulations for their own guidance and for the government of the library as they deem expedient.
- Have the supervision, care and custody of all library property.
- Employ a librarian, prescribe duties, compensation, and remove for just cause.
- Submit an annual budget to the appropriate legislative body, or certify the tax rate.
- Have exclusive control of the finances of the library (See discussion of advisory boards and libraries in cities and towns, page 3.5.)
- Accept gifts of money or property for the library as appropriate.
- Lease or purchase land for the library buildings as well as lease, purchase, or construct a library building, acquire other property as needed therefore.
- Purchase books, periodicals, maps and supplies for the library. (See discussion in Chapter 19, Collection Development.)
- All other acts necessary for orderly and efficient management of the library.

A Selection of Laws that Impact Libraries

In addition to the state laws that directly relate to the establishment and operation of libraries, there are many other federal and state laws that impact libraries. Some of these include:

- Age Discrimination Employment Act (ADEA)
- Americans with Disabilities Act (ADA)
- Civil rights laws, both state and federal
- Fair Labor Standards Act (FLSA)
- Immigration Reform and Control Act
- Minimum wage, both state and federal
- Washington Industrial Safety And Health Act (WISHA):
- Open public meetings
- Public records, including library exemption for circulation records
- Prohibition against gifts or lending the credit of the library
- Competitive bidding
- Submitting an annual report to the Washington State Library

Suggested Expectations of Board Roles

(Adapted with permission from “Both Sides Now” in the Washington Library Association *ALKI*, December 1998, written by Anne Haley, Director Yakima Valley Regional Library)

With all the jokes about committees, one wonders why we bother at all with boards. The law says library boards have certain rights and responsibilities. This is the stuff of minutes.

The real function of boards, on the other hand, is to provide wise counsel, advice and oversight. Boards should ask inconvenient or uncomfortable questions and want to know why a recommendation is proposed. Boards should have a fifth sense for the political ramifications of actions and insist on being informed. Boards should expect and work to build a symbiotic relationship with their staff in which each in turn provides leadership and a healthy skepticism for the other.

Sitting on a board requires a sincere commitment to furthering the mission and vision of the library. It means thinking through policy implications and synchronizing staff planning with board review and approval. It means clearly understanding and appreciating the difference in roles and responsibilities between a board and its staff. It also means being proud of the library and loving what you are doing.

Two over-riding mottoes have kept me out of trouble. One motto is audible only during board meetings. It says: “It is now time to shut up.” The other motto is heard only in preparation for driving under winter highway advisory warnings to attend a board meeting. It says: “Is this meeting worth your life?”

Role and Authority of Advisory Boards

Advisory boards in annexed or contracting cities represent their community and its perspectives to the larger library system providing essential input and assistance in order to assure that services and programs are useful to their community.

Advisory board members should be ready to:

- Assist in long-range and annual planning.
- Participate in strategic planning for the library.
- Serve on library committees.
- Recommend and advocate for budgets and policies that support the community library.
- Assist the library director in policy level decision-making, in appropriate areas.

Board members are library advocates within their community, representing and promoting the library system services and programs as well as the community library services.

Advisory board meetings are open and public input is encouraged.

Conflicting Laws in Optional Municipal Code Cities

Apparently conflicting laws preside over the authority of library boards in Optional Municipal Code cities. The law for Optional Municipal Code Cities (*RCW 35A.27.010*) states “Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries....”

This is inconsistent with *RCW 27.12.190* that declares “The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body.”

Thus, libraries in cities that operate under the Optional Municipal Code form of government are established as a city department and report to the city. The city board may be invested with advisory authority only, or with partial authority depending on the decision of city authorities. Unlike the governing board of a library district whose authority is clearly stated in law, the degree of authority of a code city library board needs to be carefully negotiated. It is the responsibility of the city library board to clarify and confirm the breadth and depth of its authority and responsibilities.

Once an agreement is reached between the library board, director, and appropriate officials, some municipal legislative bodies in Optional Municipal Code cities have adopted an ordinance. (See: Cities of Camas and Ellensburg ordinances at the end of this chapter.)

Potential Roles and Responsibilities to Review and Agree Upon in Optional Municipal Code Cities

The city, the library, and the legislative council/authority need to discuss and agree upon extent of authority and expectation of roles. For example, does the city manager appoint a director with or without consent of the legislative authority? What authority does the library board have in the appointment of a library director? The topics that need to be agreed upon include:

- Appointment and removal of library director.
- Appointment and removal of library trustees.
- Annual performance review of library director.
- Development and approval of library budget based on the library’s long-range plan.
- Fiscal review and approving fund expenditures.
- Establishing policies for library use and service, including circulation, customer service, selection of library materials, and Internet use policies.

Examples of Ordinances in Optional Municipal Code Cities

AGREEMENT BETWEEN CITY OF CAMAS AND CAMAS PUBLIC LIBRARY BOARD OF TRUSTEES

Due to the difficulty in reconciling Washington State law regarding public libraries (RCW 27.12) with provisions of the Optional Municipal Code (RCW 35A), especially with respect to the role of public library trustees, the City of Camas and the Camas Public Library Board of Trustees agree that the following policies shall be adopted to ensure efficient governance of the Camas Public Library.

1. Appointment and Removal of Library Trustees

Library trustees shall be appointed and removed in accordance with Camas Municipal Code Section 2.44.020. Trustees shall be appointed by the mayor with the consent of the council and shall be removed only by vote of the council.

2. Selection of Library Materials

The library director, with assistance of designated staff members, shall be responsible for selection of library materials in accordance with policies set forth by the library board of trustees. These policies shall include the American Library Association's Library Bill of rights with its current Interpretations and the Freedom to Read Statement.

The board of trustees shall hear citizen requests for reconsideration of library materials in accordance with its established policy and procedures. The board's decision in such matters shall be considered final.

3. Establishment of Policies for Library Use and Service

The library board of trustees shall adopt such policies, rules, and regulations as are necessary to ensure the provision of service to library patrons and the efficient operation of the library.

4. Labor Agreements and Personnel Policy

The city administrator shall negotiate labor agreements and salary schedules for library personnel, these agreements to be integrated with the citywide pay plan, personnel policies and collective bargaining contracts. The board of trustees shall be consulted at the time of contract negotiations or when policies affecting library personnel or operations are to be changed in order that their concerns may be considered.

5. Library Director (Recruitment, Selection, Evaluation)

In case of a vacancy in the position of library director, the city administrator, with advice from the library board of trustees, shall coordinate the recruitment process to ensure a timely search and adherence to standard personnel practices. In accordance with RCW 27.04.030, candidates for the position of library director shall hold a master's degree in library science from an institution accredited by the American Library Association and shall hold or be eligible to acquire a State of Washington librarian's certificate.

Authority to appoint or dismiss the library director shall rest with the board of trustees, with advice from the city administrator. The library director shall report to the board of trustees, and the board shall conduct an annual evaluation of the director's performance. The city administrator shall participate in any decision regarding an adverse personnel action related to the library director.

6. Budget and Finances

Library appropriations and expenditures shall conform with the requirements of state law and the Camas City Code. The city council shall have final authority to review and approve the library budget. The library budget proposal shall be developed by the library director and reviewed by the library board within a resource estimate provided by the mayor/city administrator.

Approved by Camas Public Library Board of Trustees, May, 1990

Approved by the Council of the City of Camas, September 10, 1990

ELLENSBURG PUBLIC LIBRARY CITY ORDINANCE

1.1.2 Library Board Established

A library board is established, to be known as the "Ellensburg Library Board," to consist of not less than five members; provided, however, the city manager may by order increase the board's membership to seven members.

1.1.5 Appointments

All members of the library board shall be appointed by the city manager and shall not be subject to confirmation. Appointments shall be made without regard to age, race, sex, or political affiliation. Members shall serve without compensation. Majority membership of the Library Board must be residents of the City of Ellensburg. No person shall be appointed to the Library Board for more than two consecutive terms.

The first appointments to the library board created by this ordinance shall be of those individuals who were members of the library board in existence at the time this ordinance is adopted.

1.1.6 Terms of Office

A member of the library board shall be appointed for a five-year-term, unless the appointment is to fill an unexpired term. No member may serve longer than the term or unexpired term to which he or she has been appointed, unless that person is reappointed by the city manager.

The members of the library board who obtained membership by reason of their membership on the prior board shall have a term of office coinciding with their term on that predecessor board.

1.1.10 Vacancies

A vacancy shall occur upon the resignation, death, or removal of a board member. A vacancy shall also occur whenever a board member absents himself or herself for three consecutive regular meetings of the Board or for an aggregate of five regular and/or special meetings in a single year, unless the absence are excused by action of the remaining board members.

1.1.14 Officers, Meetings and Rules

- A. At the first meeting of each calendar year, the library board shall elect from its members a chair, who shall preside at all meetings of the board; a vice-chair, who shall serve in the absence of the chair; and such other officers as the board may determine.
- B. The library board shall have a regular meeting each month and may, from time to time, provide for special meetings as may be needed to carry out the proper discharge of its duties. A majority of the library board shall constitute a quorum for the transaction of business, and a majority vote of those present shall be necessary to carry any proposition.
- C. The library board may adopt rules necessary for the conduct of its business, and shall keep a written record of its proceedings.

1.1.18 Powers and Duties

The powers and duties of the library board shall be as follows:

The library board shall act as an advisory board to the city manager and city council concerning the operations of the City of Ellensburg Library.

- A. The library board may give advisory opinions to the city manager concerning the following matters:
 - 1. The supervision, care and custody of all property of the library
 - 2. The annual budget for the operation of the library during the ensuing year;
 - 3. The appropriateness of buildings for library purposes; and
 - 4. The purchase of supplies and materials, equipment, and services for the library's operation.

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- B. Development of policy for the selection of books, periodicals, maps, materials, and information services for the library's operation.
 - C. Such other acts as may be requested by the city manager or city council relating to the orderly and efficient management and operation of the library.

1.1.19 Communications With The City Council

The library board shall forward communications to the City Council by separate memoranda, including all rationale, which shall be scheduled as council agenda items.

RESOURCES:

The Washington State Library is a primary source for information and assistance. Staff can provide information or referral concerning library laws, common library practices, and current topics of discussion.

P.O. Box 42460
Olympia, WA 98504-2460
360-753-5592
1-800-562-6090
<http://www.statelib.wa.gov>

The Municipal Research and Services Center (MRSC) Internet Website is extensive. It includes links to state laws and city ordinances as well as commentary on topics that are of concern to libraries and other governmental units. The information on the Website is available to everyone. The entire range of MRSC services are available to cities and counties. The MRSC is located at:

1200 5th Avenue, Suite 1300
Seattle, WA 98101-1159
(206) 625-1300
<http://www.mrsc.org>

The *Revised Code of Washington (RCW)* and the *Washington Administrative Code (WAC)* are primary sources to consult for laws and regulations relating to establishment and operations of public libraries in Washington. In addition to the print publications, the *RCW* and *WAC* are accessible via the Internet through the state government gateway: www.access.wa.gov or directly at <http://search.leg.wa.gov/pub/textsearch/default.asp>

Information issued in electronic format by state agencies, commissions, boards, etc., can be located through www.access.wa.gov and www.find-it.wa.gov

The title in the *Revised Code of Washington* that directly relates to libraries is included in this *Reference Manual*. However, the most recent statutes must be consulted for revisions as well as for other state laws that affect all governmental units.

Some Washington Supreme Court decisions can be found at www.access.wa.gov. The Washington State Office of the Attorney General periodically issues opinions that interpret specific laws in light of circumstances. Attorney General opinions from 1949 onward are included in the "CD LAW" database. The Attorney General's staff often issue memoranda that clarify or interpret library-related laws. The State Library maintains a file of these memoranda that resulted from questions forwarded to the Attorney General by the State Library and other libraries and government officials.

The *United States Code* and *Code of Federal Regulations*, and the *Federal Register* are also available in print and via the Internet. <http://www.access.gpo.gov>